IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3884 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AGRICULTURAL PRODUCE MARKET

Versus

STATE OF GUJARAT

Appearance:

MR MEHUL VAKHARIA FOR MR KG VAKHARIA for Petitioner

MS. NANDINI JOSHI AGP for Respondent No. 1

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. By means of filing this petition under Article 226 of the Constitution, the petitioner - Agricultural Produce Market Committee, Malpur, District Sabarkantha, challenges the legality and validity of the rules of Gujarat Cooperative Societies (Amendment) Rules 1982,

vide issuing notification dated July 6, 1982 which was published in Government gazette dated September 16, 1986. By the above referred to rules, a schedule was appended to the Gujarat Co-operative Societies Rules, 1965 and by the said schedule the scales of audit fees are prescribed. The petitioner challenges the Entry 2 (F) (1) of the said Schedule whereby the Agricultural Produce Market Committees are covered being ultra vires to the powers of the State Government.

2. When the matter was called out for final hearing today, Mr. Mehul Vakaharia, learned counsel for the petitioner and Ms. Joshi, learned A.G.P. for the State Government are present. Ms. Joshi has placed on record notification dated January 3, 1987 issued by the Deputy Secretary, Cooperative Department, Government of Gujarat, whereby notification dated July 6, 1982 which is impugned in this petition has been set aside and the earlier audit fees are continued and, therefore, she contended that since the impugned notification has been set aside by subsequent notification, this petition now does not survive.

3. Having heard the learned counsel appearing for the parties and on having perusal of the impugned notification dated July 6, 1982 and subsequent notification dated January 3, 1987, it becomes abundantly clear that by the subsequent notification previous notification has been set aside and the fees which were were recoverable prior to issuance of notification dated July 6, 1982 shall continue, and therefore, I am of the opinion that the grievance voiced in this petition now does not survive.

4. For the foregoing reasons, since this petition has become infructuous the petition stands disposed of. Rule is discharged with no order as to costs Interim relief stands vacated. A copy of the notification dated January 3, 1987 placed on record by the learned A.G.P. shall be retained on record.

12.1.2001. (A.M. Kapadia, J.)

(karan)